

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DEAN LOREN — PETITIONER
(Your Name)

vs.

THE CITY OF NEW YORK ET AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SECOND CIRCUIT COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DEAN LOREN
(Your Name)

203 WEST 107TH STREET APT #8A
(Address)

NEW YORK, NY 10025
(City, State, Zip Code)

718 277 1367
(Phone Number)

QUESTIONS PRESENTED

1. Whether it is Constitutional for the lower Appellate Court, to so far depart from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's appeal to the Second Circuit based on the lower Appellate Court's:

.1 Failure to file an appeal under FRAP Rule 4¹ Filing of Appeal within

60 days of a case involving a federal employee;

.2 Failure to include three (3) mailing days to the calculation of time for

filing an appeal for a final decision mailed to a party that is without

electronic filing under FRAP Rule 4; and

.3 Failure of District Judge to control her rubber stamp that created

violations of due process when there were major conflicts of interest?

¹ FRAP Rule 4: Rule 4 (a) (1) and (2) of Federal Appellate Procedure that (1) *Time for Filing a Notice of Appeal*, (A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from, and (B) The notice of appeal may be filed by any party within 60 days after entry of the judgment or order appealed from if one of the parties is: (i) the United States; (ii) a United States agency; (iii) a United States officer or employee sued in an official capacity; or (iv) a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf — including all instances in which the United States represents that person when the judgment or order is entered or files the appeal for that person.

QUESTIONS PRESENTED CONTINUED

2. Whether it is Constitutional to grant Federal Status for filing within 60 days, an appeal under FRAP Rule 4 on:

.1 A US Deputy Marshal Security Monitor contracted by the Department of Justice; and

.2 A District Judge's Clerk?

3. Whether it is Constitutional for a duly elected municipal official serving in their duly elected official capacity on the public access television board as a state actor to oversee a state actor private public access telecommunication franchise operator's public forum?

4. Whether it is Constitutional for public access television franchisee operator as a state actor to ban member producers without holding public hearing required under a public forum?

LIST OF PARTIES 18-36 2ND CIR AND RULE 29.6 STATEMENT

All parties do not appear in the caption on the cover page.

Petitioner Dean Loren was the Plaintiff -Appellant in the Secord Circuit Court of Appeals in No. 18-36 CV

LIST OF PARTIES NO. 18-36 2ND CIR, RULE 29.6 STATEMENT (Cont'd)

City of New York
Manhattan Borough President Gale Brewer

were defendants-appellees in the court of appeals in no 18-36 CV

Manhattan Community Access Corporation
Dan Coughlin
Jeanette Santiago
Cory Bryce
Zenaida Mendez
Chris Gethard
June Middleton

were defendants-appellees in the court of appeals in no 18-36 CV

Defendant Robert Schumer, Esq.,
Time Warner Cable, and
Robert D. Marcus former CEO of Time Warner Cable

were defendants-appellees in the court of appeals in no 18-36 CV.

Defendant Enrique Hernandez, President and
Inter-Con Security (a federal contractor for the Department of Justice)

were defendants-appellees in the court of appeals in no 18-36 CV.

Defendant Robert Perry, Esq. was a defendant-appellee in no 18-36 CV.

Defendant Gloria Messer was a defendant-appellee in the court of appeals in
no 18-36 CV. Messer is not a respondent for this US Petition for Cert.

Note:

Defendant Kyle O. Wood was a defendant-appellee in the court of appeals in
no 18-36 CV and a federal district judge clerk and federal employee.

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OPINIONS BELOW

The Second Circuit's opinion dated June 12, 2018 and dated April 25, 2018 may be unreported but is reprinted in the Appendix to the Petition (Pet. App.") at A and B, respectively.

The district court's opinion dated February 2, 2018, November 28, 2017, July 11, 2017, November 11, 2016, and July 14, 2016 may be unreported and unpublished, but are reprinted in the Appendix at C, D, E, F, and G respectively.

JURISDICTION

The U.S. Supreme Court docketed at No. 17-1702 a Petition for Certiorari by Defendant-Appellant Manhattan Community Access Corporation (“MNN”), Daniel Coughlin, Jeanette Santiago, and Cory Bryce on June 21, 2018. but did not inform or serve Petitioner Dean Loren, a Intervener as of Right in the District Court in the Halleck Case 15 cv 8141 (WP).

The Second Circuit issued its opinion on June 12, 2018 and April 25, 2018 denied Petitioner’s filing of his Appeal without explaining why and without citing cases for litigants to be served by mail who are without electronic filing access. Dean Loren timely filed this petition for writ of certiorari on December 29, 2018. See 28 U.S.C. § 2101(c). This Court has jurisdiction under 28. U.S.C. §1254(1).

CONSTITUTIONAL, STATUTORY AND REGULATORY PROVISIONS
INVOLVED

U.S. Const. amend. I, “Congress shall make no law .. abridging the freedom of speech...”

U.S. Const. amend 14, “...due process of law..... equal protection of the laws”

This case also involves Rule 4 (a) (1) and (2) of Federal Appellate Procedure that (1) *Time for Filing a Notice of Appeal*, (A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from, and (B) The notice of appeal may be filed by any party within 60

days after entry of the judgment or order appealed from if one of the parties is: (i) the United States; (ii) a United States agency; (iii) a United States officer or employee sued in an official capacity; or (iv) a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf — including all instances in which the United States represents that person when the judgment or order is entered or files the appeal for that person.

STATEMENT OF THE CASE

This case presents several important - and unsettled - recurring questions of law regarding

(i) due process and equal protection of time calculation for filing appeals for litigants without access to electronic filing that are served by mail,

(ii) due process and equal protection parties subcontracted by the federal government and/or employed as federal deputy law clerks,

(iii) due process and equal protection when a district judge loses control of her rubber stamp and does not know what decisions are being stamped by clerks, and

iv) municipal state actors serving on board of directors for public access operators also deemed as a state actor, abridging the freedom of speech by banning TV producers without hearings.

A. DISTRICT COURT SERVICE BY MAIL TO A PARTY WITHOUT

ELECTRONIC MAIL ACCESS REQUIRES THREE (3) ADDITIONAL DAYS

First, Petitioner Loren (who does not have access to electronic filing) filed his Notice of Appeal to the Second Circuit upon receiving the decision of the lower district court in the U.S. mail *as ordered by the court in each and every case an order was issued*. Clearly, to not add three days or even five days mailing denies petitioners who do not have access to electronic mailing their thirty-day time limit violates equal protection and due process of law of parties without access to electronic filing. A clear concise rule for calculation of time for litigants without access to electronic filing is a compelling reason for hearing this case.

B. DEFENDANTS WITH FEDERAL STATUS - 60 DAYS FILING PERIOD

Second, two parties of the case are employed by the Federal Government, a federal judge deputy clerk Kyle O. Wood, and an alleged U.S. Deputy Marshal Inter-Con Security Monitor subcontracted through the US Department of Justice. Clearly, to not recognize Administrative and Security Federal Employees under contract and insured by the Department of Justice, for the purposes of the sixty-day time period rule to file an appeal, contradicts FRAP Rule 4 (a)(1)(B) and due process of law, as well as equal protection of the laws. A clear rule must state Federal Deputy Clerks and Security employed in Federal Courts are Federal employees for the purposes of FRCP Rule 4 for calculating time periods for filing notices of appeals.

C. CLERKS RUBBER STAMP DECISIONS WITHOUT KNOWLEDGE OF
CHIEF DISTRICT JUDGES CREATE VIOLATIONS OF DUE PROCESS
AND EQUAL PROTECTION

Third, US District Chief Judge McMahon admitted to losing control of her stamp in her Tremont Decision of February 2, 2018 (See Appendix C, p2). Chief Judge McMahon violated Petitioner Loren's due process and equal protection under the law, when Judge McMahon acknowledged major conflicts affecting Liotti and Loren. In Liotti v. JetBlu, Chief Judge McMahon had conflicts of interest involving her husband Frank Sica on the Board of JetBlu, and in Loren v. The City of New York et al, Judge McMahon had represented Charles Schumer while at Paul Weiss, and the party sued by Loren is her former client's brother Robert Schumer, Esq. of Paul Weiss. In essence clerks, run Judge McMahon's court without her knowledge, using her stamp to issue sua sponte decisions to which Judge McMahon has major conflicts of interest with her husband, Paul Weiss and the Schumer Family.

Fourth, Judge McMahon's Clerks rubber stamped false procedural facts that continued to be cited and are part of MNN's 17-1702 Certiorari Petition further discussed below in Section D. On January 28, 2016, Paula Gloria intervened as of right by email in Halleck v. City of New York, the admitted related case. Loren intervened as of right in the Halleck case on May 11, 2016. However Chief Judge McMahon's clerks also rubber stamped Loren as the being the "January 28, 2016 Intervener", and prejudicing Loren's due process and equal protection.

D. MUNICIPAL DULY ELECTED STATE ACTOR SITS ON PUBLIC ACCESS OPERATOR BOARD IN HER ELECTED CAPACITY VIOLATES FREEDOM OF SPEECH IN BANNING TV PRODUCERS WITHOUT HEARINGS

Lastly, Municipal Duly Elected Manhattan Borough President Gale Brewer sits on MNN's Board of Directors, which is the very issue in 17-1702 Certiorari Petition sought to be argued by MNN. Loren was arrested by an alleged US Marshal Inter-Con Security Monitor subcontractor for the US Department of Justice, after evidence of Manhattan Borough President Gale Brewer as a Board of Director was brought to the attention of Judge Pauley, by Paula Gloria in an email to further abridge Loren's freedom of speech directly with Bor Pres Brewer's staff.

E. FACTS GIVING RISE TO THIS ACTION

Petitioner Loren is a public access TV producer in Manhattan. MNN (Admitted in 17-1702 Certiorari Petition pg 4) is a public access operator. Manhattan Borough President Gale Brewer sits on the MNN Board of Directors in her Duly Elected Capacity and held meetings to discuss the banning of Loren and Halleck by MNN and Dan Coughlin at her office.

Manhattan Borough President Gale Brewer was directly involved in the disciplinary action without hearings against Loren, Deedee Halleck and others.

MNN and MNN Board of Director-Manhattan Borough President Brewer never presented Petitioner Loren with any written allegations by MNN and was banned like Jesus Papolito Melendez.

Loren's Complaint evidences that the same day MNN would retaliate against Loren, MNN would retaliate against Halleck and Melendez.

Petitioner Loren had complained in writing about harassment by staff members and the taking of his studio time by MNN, Chris Gethardt and Judd Apatow and MNN Board Directors-HBO Officers to produce a 12 Hour Marathon to Get Out the Vote for Obama/Schumer in violation of Federal Election Commission non-profits standards, as well as selling a MNN Station Channel to VP Al Gore, and other acts with HBO Officers-MNN Board of Directors for material gain and profit.

Petitioner Loren attended a SDNY Court Hearing on Jan 28, 2016 before Judge Pauley at which Paula Gloria intervened by email and identified MNN Board Director-Manhattan Borough President Gale Brewer as the State Actor involved in banning Loren and others, including Halleck. All the attorneys had the email and the transcript noted each attorney admitting receipt of the Paula Gloria email.

After Petitioner Loren attended a January 28, 2016 hearing in District Judge Pauley's Chambers for the Halleck case, Alleged US Deputy Marshal-Inter Con Security Monitor Pena, in retaliation, jumped Loren and Radin at the Elevators on the 20th floor lobby in a building rented to the GSA for the SDNY. Loren was arrested and held for an hour on a bench.

Defendant Perry, an attorney, witnessed the assault on Loren and Radin. Perry later admitted at Radin's trial there was no basis for the assault on Loren and

Radin. Pena also failed to produce his paperwork as a US Special Deputy Marshal for specific duties required to be on file at Dept of Justice in D.C.

Petitioner Loren witnessed Judge Pauley's Deputy Clerk Kyle O. Wood attend a Presentment Hearing for Radin's simple assault on a federal officer (Special US Deputy Marshal Pena of Inter-Con Security) in Magistrate Peck's Chambers. Kyle O. Wood was directly acted in Loren's retaliatory arrest for attending the Halleck Jan 28, 2016 hearing

On February 7, 2016, Judge Pauley's Clerk Kyle O. Wood fled the Court when I reported Wood, and Wood took a job with the NY Suffolk County Attorney.

MNN would again take Loren's Time Slot to produce a 12 Hour Marathon to Get Out the Vote for Hillary Clinton for the General Election of 2016.

F. PROCEDURAL HISTORY

1. DISTRICT COURT PROCEEDINGS

On May 11, 2016, Petitioner Loren filed a Complaint against MNN and the City of New York with a Motion to Intervene as of Right according to Judge Pauley's instructions, filed with the SDNY Pro Se Office.

On July 14, 2016, The Clerks of Chief Judge McMahon, using her rubber stamp without Judge McMahon's knowledge, as admitted in the Liotti v. Jet Blu Case, issued an order for Loren to Amend his Complaint confusing Loren with Paula Gloria (Jan 28, 2016 email intervenor), and forwarded Loren's Motion to Intervene to Judge Pauley. Note Loren's presence at Jan 28 hearing only known to

SDNY Prosecutor AUSA Ferrara and Lake prosecuting the Radin Class A Misdemeanor.

On September 9, 2016, Loren amended and filed his Amended Complaint, and the Clerks rubber stamped his assignment to Judge Engelmayer instead of Judge Pauley who Loren had intervened as of right, and who Judge Pauley had acknowledged had received Loren's Motion to Intervene as of Right.

At all times both MNN and the City of New York admit that Petitioner Loren's 16cv3605 claims were related to Halleck's 15cv8141.

On November 21, 2016, Judge Engelmayer rubber stamped a decision that sua sponte dropped without any basis, Robert Schumer, Time Warner and the other defendants pending additional information why Time Warner, Robert Schumer and others should be in the action.

However, in the post election November 21, 2106 order, pg 2 Section B, Judge Engelmayer noted Clerk Kyle O. Wood as a federal judge clerk employee.

MNN and the City's Attorneys knowing the Clerk's Rubber Stamped information on the Paula Gloria Intervener Email continued to falsely portray Loren as the Jan 28, 2016 Intervener as of Right in their papers.

On July 11, 2017, District Judge Englemayer rubber stamped granted summary judgment for MNN and the City, and continued to cite the Clerk's rubber stamped false procedures.

Petitioner Loren requested Engelmayer to sign his decisions. Judge Engelmayer refused to personally sign his decisions and his clerks continued to rubber stamp his signature.

On November 28, 2017, District Judge Englemayer rubber stamp denied Petitioner's Loren Motion for Rehearing and Reargument and ordered the District Clerk to mail Engelmayer's rubber stamped decision to Loren.

2. APPELLATE PROCEEDINGS

On December 29, 2017, Loren timely filed his Notice of Appeal of Engelmayers rubber stamped and mailed order dated November 28, 2017.

MNN and the City opposed Loren's filing pursuant to Electronic Filing Time Period Calculation while knowing Loren had no access to Electronic Filing.

On April 25, 2018 the Second Circuit rubber stamped an order denying Loren's Appeal without citing a reason and citing cases that did not apply to a party without electronic filing privileges and had to be served by mail by the Clerk.

On June 12, 2018, the Second Circuit rubber stamped an order denying Loren's Appeal within 60 days pursuant to FRAP Rule 4 without citing a reason or citing cases concerning parties without electronic filing privileges bringing cases against federal employees.

REASONS FOR GRANTING THE PETITION -

THE DECISIONS BELOW RAISE ISSUES OF RECURRING AND
NATIONWIDE IMPORTANCE FOR PRO SE LITIGANTS WITHOUT
ELECTRONIC FILING PRIVILEGES AND PUBLIC ACCESS TV PRODUCERS
BANNED IN A PUBLIC FORUM WITHOUT HEARINGS BY STATE ACTORS

I. THE SECOND CIRCUIT FAILED THIS COURT'S
TRADITION OF FRAP RULE 4 CALCULATION OF TIME
REGARDING 3 DAYS ADDED FOR MAILING.

This Court should note that the Second Circuit Clerk rubber stamped
DENIED Loren's timely December 29, 2017, Notice of Appeal without any opinion
or basis and without citing any cases of parties without electronic filing access and
who had to be served by US Mail as in the good ol' days.

At this point, This Court should exercise Constitutional supervisory power
over the lower Appellate Court for departing so far from the accepted and usual
course of judicial proceedings, or sanction such a departure by the initial court of
record, as to call for an inevitable exercise of this Appellate Court's supervisory
power to restore Petitioner's sacred right to Justice. to thirty (30) days to appeal
with time for US Mail to reach party without electronic filing privileges.

That MNN and City licensed federal bar attorneys joined in on the rubber
stamping creates an untenable Constitutional atmosphere of oppression of
American Citizens without access to electronic filing privileges.

That the City of New York owns the Land and Building that is rented to the SDNY Federal Court creates a conflict of interest that requires intervention.

II. THE SECOND CIRCUIT FAILED THIS COURT'S
TRADITION OF RECOGNITION OF FEDERAL STATUS FOR A
DISTRICT JUDGE'S CLERK AND SPECIAL US DEPUTY
MARSHAL

This Court should note that the Second Circuit Clerk rubber stamped DENIED Loren's timely December 29, 2017, Notice of Appeal without any opinion or basis concerning FRAP Rule 4 - 60 day filing period or citing any cases concerning a federal judicial deputy clerk as a party for the purposes of FRAP Rule 4.

Again, At this point, This Court should exercise Constitutional supervisory power over the lower Appellate Court for departing so far from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's sacred right to Justice to FRAP Rule 4 to permit filing an appeal within sixty (60) days.

Again, that MNN and City licensed federal bar attorneys joined in on the rubber stamping creates an untenable Constitutional atmosphere of oppression and violation of due process of law and equal protection under the law.

Again, that the City owns the Land and Building that is rented to the SDNY Federal Court creates a conflict of interest that requires intervention.

III. THE DISTRICT COURT JUDGE ADMISSION TO
LOSING CONTROL OF HER RUBBER SIGNATURE STAMP
CREATES VIOLATIONS OF DUE PROCESS

Chief Judge McMahon openly admits to losing control over her rubber stamped used by her Clerks in Petitioner's Loren's decision in her Tremont Decision on pg 2 Appendix C. Chief Judge McMahon goes on to cite her husband Frank Sica conflict as a party to the case. Judge McMahon was the Paul Weiss Attorney who defended US Senator Charles Schumer in election improprieties, and Paul Weiss and Robert Schumer (Chuck's brother) create rubber stamped conflicts like Sica.

At this point, This Court should exercise Constitutional supervisory power over the lower Appellate Court for departing so far from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's sacred right to Justice from Clerk's using rubber stamps without the knowledge of the Judges.

That MNN and City licensed federal bar attorneys joined in on the rubber stamping knowing that Paula Gloria not Loren, had email intervened on Jan 28, 2016, creates an untenable Constitutional atmosphere of oppression and violation of due process of law and equal protection under the law as federal bar attorneys.

That the City owns the Land and Building that is rented to the SDNY Federal Court creates a conflict of interest that requires intervention.

IV. A DULY ELECTED MUNICIPAL OFFICIAL SERVING
IN HER CAPACITY ON A PUBLIC ACCESS TV BOARD
IS A STATE ACTOR

The operative fact in this Petition for Certiorari that should be joined with 17-1702 MNN Petitioner Certiorari, is that MNN Board Director-Manhattan Borough President Gale Brewer is the state actor of the per se rule by the 2nd Circuit.

At this point, This Court should exercise Constitutional supervisory power over MNN's attorneys for departing so far from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's sacred right to Justice.

That MNN and City licensed federal bar attorneys joined in on the rubber stamping knowing that MNN Board Director-Manhattan Borough President Gale Brewer was personally involved in the banning of producers shocks the conscious.

V. A PARTY INTERVENOR AS OF RIGHT MUST BE SERVED
BY PARTIES TO THE ACTION

Petitioner Loren Intervened as of Right and MNN and The City acknowledged his intervention, and also said Loren intervened on January 28, 2016.

At this point, This Court should exercise Constitutional supervisory power over the MNN attorneys for departing so far from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's sacred right to Justice.

That MNN and City licensed federal bar attorneys failed to add Loren to service and notice of documents creates an untenable Constitutional atmosphere of oppression and violation of due process of law.

VI. A STATE ACTOR FOR A PUBLIC TV FRANCHISE HAS A
DUTY TO HOLD A HEARING FOR A PRODUCER BEFORE
BANNING THE PRODUCER AS A MATTER OF DUE PROCESS

Again, the operative fact in this Petition for Certiorari that should be joined with 17-1702 MNN Petitioner Certiorari, is that MNN Board Director-Manhattan Borough President Gale Brewer is the state actor of the per se rule by the 2nd Circuit.

At this point, This Court should exercise Constitutional supervisory power over MNN's attorneys for departing so far from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's sacred right to Justice.

CONCLUSION

Based on the following:

- a) Loren without electronic filing privileges pursuant to FRAP Rule 4 timely filed within 30 days plus 3 days for mail of receiving a court ordered mailing;
- b) Loren without electronic filing privileges pursuant to FRAP Rule 4 timely filed within 60 days for a case involving not one, but two federal employees;
- c) Chief Judge McMahon openly admits to losing control of her rubber stamp and allowing clerks to issue orders without her knowledge involving Liotti and her husband Frank Sica and Loren and US Senator Charles Schumer, Paul Weiss, Robert Schumer (Chuck's brother);
- d) MNN Board of Director-Manhattan Borough President Gale Brewer participated in the banning of MNN Public Access TV Producers Loren, Halleck and others in Brewer's State Actor Capacity;

This Court should exercise Constitutional supervisory power over the Second Circuit and lower District Court and MNN's attorneys for departing so far from the accepted and usual course of judicial proceedings, or sanction such a departure by the initial court of record, as to call for an inevitable exercise of this Appellate Court's supervisory power to restore Petitioner's sacred right to Justice and remand Loren's action back to the Lower Court, as well as

Granting certiorari is necessary to resolve a recurring issue not just for parties without electronic access or privileges being denied equal protection and due process, but people being charged and prosecution with false Class A Misdemeanors - Simple Assault on Federal Officer, but for operators of public access channels who are banned without hearings, and for those who own and operate private companies involved in media platforms and subcontracting from the federal government as well as,

joining Loren's Petition with MNN's Petition for Certiorari No. 17-1702 as a related matter.

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted.

The word count for this entire document is 4767.

Respectfully submitted and sworn to under penalty of perjury, September 6, 2018.



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